



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

MATTER OF B-A-, INC.

DATE: OCT. 4, 2017

APPEAL OF NEBRASKA SERVICE CENTER DECISION

PETITION: FORM I-140, IMMIGRANT PETITION FOR ALIEN WORKER

The Petitioner, a tire manufacturing business, seeks to employ the Beneficiary as a senior systems developer. It requests classification of the Beneficiary as a member of the professions holding an advanced degree under the second preference (EB-2) immigrant classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). This employment-based immigrant classification allows a U.S. employer to sponsor a professional with an advanced degree for lawful permanent resident status.

The Director of the Nebraska Service Center denied the petition, concluding that the Beneficiary did not meet the experience requirements of the labor certification or the EB-2 classification.

On appeal, the Petitioner asserts that the Beneficiary's education and experience satisfies the requirements of the labor certification and the EB-2 advanced degree professional classification. Upon *de novo* review, we will dismiss the appeal.

I. LAW

Employment-based immigration generally follows a three-step process. First, an employer obtains an approved labor certification from the U.S. Department of Labor (DOL).¹ *See* section 212(a)(5)(A)(i) of the Act, 8 U.S.C. § 1182(a)(5)(A)(i). By approving the labor certification, DOL certifies that there are insufficient U.S. workers who are able, willing, qualified, and available for the offered position and that employing a foreign national in the position will not adversely affect the wages and working conditions of domestic workers similarly employed. Section 212(a)(5)(A)(i)(I)-(II) of the Act. Second, the employer files an immigrant visa petition with U.S. Citizenship and Immigration Services (USCIS). *See* section 204 of the Act, 8 U.S.C. § 1154. Third, if USCIS approves the petition, the foreign national applies for an immigrant visa abroad or, if eligible, adjustment of status in the United States. *See* section 245 of the Act, 8 U.S.C. § 1255.

To qualify for EB-2 classification, a beneficiary must possess an advanced degree. 8 C.F.R. § 204.5(k)(3). The regulations define the term "advanced degree" as "[a]ny United States academic

¹ The date the labor certification is filed, in cases such as this one, is called the "priority date."

or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree." 8 C.F.R. § 204.5(k)(2).

In addition, to be eligible for approval, a beneficiary must also have all the education, training, and experience specified on the labor certification as of the petition's priority date. *See Matter of Wing's Tea House*, 16 I&N 158 (Acting Reg'l Comm'r 1977).

II. ANALYSIS

The petition is accompanied by an approved labor certification, certified by the DOL. *See* 8 C.F.R. § 204.5(a)(2). Section H of the labor certification states that the offered position requires a bachelor's degree in computer science or information technology and 60 months of experience in information technology. No alternate combination of education and experience is permitted.

The record contains a copy of the Beneficiary's diplomas from India: a bachelor of commerce diploma from [REDACTED] awarded in May 2010, and a master's degree in information technology diploma from [REDACTED] awarded in December 2016.

The record also contains an evaluation of the Beneficiary's educational credentials from [REDACTED] with the [REDACTED] who concludes that the Beneficiary's master's degree, in conjunction with his bachelor's degree, is "the equivalent of a bachelor's degree in information technology and a master's degree in information technology from a regionally accredited college or university in the United States." [REDACTED] does not state that the Beneficiary's three-year bachelor of commerce degree alone represents the equivalent of a U.S. bachelor's degree in information technology. Rather, [REDACTED] finds that the three-year bachelor of commerce degree is equivalent to three years of university study in the U.S. [REDACTED] relies on the combination of the Beneficiary's three-year bachelor's degree and two-year master's degree to find that the Beneficiary has the equivalent of a bachelor and master's degree in information technology.

USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. However, where an opinion is not in accord with other information or is in any way questionable, USCIS is not required to accept or may give less weight to that evidence. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988); *see also Matter of D-R-*, 25 I&N Dec. 445 (BIA 2011) (expert witness testimony may be given different weight depending on the extent of the expert's qualifications or the relevance, reliability, and probative value of the testimony). As noted by the Director, USCIS reviews information from the American Association of Collegiate Registrars and Admissions Officers (AACRAO) Electronic Database for Global Education (EDGE)² when

² AACRAO is "a nonprofit, voluntary, professional association of more than 11,000 higher education professionals who represent approximately 2,600 institutions in over 40 countries." <http://www4.aacrao.org/centennial/about.htm> (last

evaluating degree equivalencies. EDGE states that the Beneficiary's three-year bachelor of commerce degree is comparable to three years of university study in the United States, the same conclusion offered by the submitted credential evaluation. As such, the Petitioner has not established that the Beneficiary's bachelor of commerce degree is the foreign equivalent of a U.S. bachelor's degree in information technology.

Concerning the Beneficiary's master's degree, the credential evaluator concludes that the foreign master's degree is equivalent to both a U.S. bachelor's degree and a U.S. master's degree. As noted above, the same credential evaluator found the Beneficiary's three-year bachelor's degree to be equivalent only to three years of university study. It is unclear how the evaluator then equates the two-year master's degree program, following three years of university study, to a U.S. master's degree. The credential evaluator does not discuss the courses taken, the credits earned, or the methodology used to reach the conclusion. Also, contrary to the evaluator's assertions, EDGE states that a two-year master's degree following a three-year bachelor's degree from India is equivalent only to a U.S. bachelor's degree.³ Therefore, we find the Beneficiary's master's degree equivalent to a U.S. bachelor's degree. Because the Beneficiary possesses the equivalent of a U.S. bachelor's degree, he meets the minimum education requirements of the position and classification. However, as the Beneficiary was awarded the equivalent of a bachelor's degree only 33 days before the priority date of the petition, the Beneficiary could not possess the five years of post-baccalaureate experience required to meet the terms of the labor certification or to establish his possession of the equivalent of an advanced degree.⁴

III. CONCLUSION

The Petitioner has not established that the Beneficiary meets the experience requirements of the offered position set forth on the labor certification, or that he possesses an advanced degree as required for the EB-2 classification.

ORDER: The appeal is dismissed.

Cite as *Matter of B-A-, Inc.*, ID# 799210 (AAO Oct. 4, 2017)

visited Jun. 28, 2017). According to its registration page, EDGE is "a web-based resource for the evaluation of foreign educational credentials." <http://edge.aacrao.org/info.php> (last visited Sep. 19, 2017).

³ Courts have supported our reliance on the information provided by EDGE. See *Confluence Int'l, Inc. v. Holder*, 2009 WL 825793 (D. Minn. Mar. 27, 2009) (finding that we provided a rational explanation for reliance on information provided by AACRAO to support our decision), see also *Sunshine Rehab Services, Inc.*, 2010 WL 3325442 (E.D.Mich. Aug. 20, 2010) (concluding that USCIS was entitled to prefer the information in EDGE and did not abuse its discretion in reaching its conclusion based on this information).

⁴ In order to qualify for advanced degree professional classification, a beneficiary must possess an advanced degree or the equivalent of an advanced degree. "A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree." 8 C.F.R. § 204.5(k)(2).